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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **RSA 33/2021**

**SMT. SUSHMA** ..... Appellant  
Through: **Ms. Ankita Patnaik, Advocate**

versus

**SH. SHYAM SINGH & ANR.** ..... Respondents  
Through

**CORAM:**  
**HON'BLE MS. JUSTICE JYOTI SINGH**

% **ORDER**  
**23.03.2021**

**CM APPL. 11575/2021**

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

**CM APPL. 11576/2021**

Issue notice to the Respondents, through all permissible modes, on the Appellant taking requisite steps, returnable on 17<sup>th</sup> May, 2021.

**RSA 33/2021 & CM APPL. 11574/2021**

Present Regular Second Appeal has been filed by the Appellant against the impugned order of the First Appellate Court judgement dated 03.02.2020 in RCA No. 121/2018 and the judgement and decree dated 13.04.2018 in Suit No. 9509/2016 passed by the Trial Court.

Learned counsel for the Appellant submits that Respondent No. 2 is the husband of the Appellant and Respondent No. 1 is the father-in-law. Initially, Respondent No. 1 had filed a suit seeking permanent and



mandatory injunction being Suit No. 9509/2016 but the plaint was subsequently amended to include the prayer to dispossess the Appellant. The Suit was filed by Respondent No. 1 in collusion with Respondent No. 2, after the Appellant had initiated proceedings under Section 12 of the Protection of Women from Domestic Violence Act, 2005. She further submits that Respondent No. 2 has also filed Divorce proceedings against the Appellant where Respondent No. 1 is a witness. List of Witnesses in the said proceedings has been enclosed in the Appeal herein.

The Trial Court vide judgment dated 13.04.2018 partially decreed the suit under Order XII Rule 6 CPC directing the Appellant and Respondent No. 2 to handover peaceful possession of the suit property to Respondent No. 1 ignoring that it was a collusive suit and was filed with an intent to dispossess the Appellant from the suit property in which she has a right of residence being a shared household. The First Appellate Court also ignored the collusion and the law on shared household and dismissed the appeal filed by the Appellant.

Learned counsel for the Appellant relies on the judgement of a Coordinate Bench decided on 29.11.2019 in **CM(M) 1582/2018 titled Vinay Verma vs. Kanika Pasricha & Anr.**, relevant part of which is as under:

*“46. However ..... The question then arises as to whether the obligation of providing the shelter or roof is upon the in-laws or upon the husband of the daughter-in-law i.e., the son. Some broad guidelines as set out below, can be followed by Courts in order to strike a balance between the PSC Act and the DV Act:*

*1. The court/tribunal has to first ascertain the nature of the relationship between the parties and the son's/*



*daughter's family.*

*2. If the case involves eviction of a daughter in law, the court has to also ascertain whether the daughter-in-law was living as part of a joint family.*

*3. If the relationship is acrimonious, then the parents ought to be permitted to seek eviction of the son/daughter-in-law or daughter/son-in-law from their premises. In such circumstances, the obligation of the husband to maintain the wife would continue in terms of the principles under the DV Act.*

*4. If the relationship between the parents and the son are peaceful or if the parents are seen colluding with their son, then, an obligation to maintain and to provide for the shelter for the daughter-in-law would remain both upon the in-laws and the husband especially if they were living as part of a joint family. In such a situation, while parents would be entitled to seek eviction of the daughter-in-law from their property, an alternative reasonable accommodation would have to be provided to her.*

*5. In case the son or his family is ill-treating the parents then the parents would be entitled to seek unconditional eviction from their property so that they can live a peaceful life and also put the property to use for their generating income and for their own expenses for daily living.*

*6. If the son has abandoned both the parents and his own wife/children, then if the son's family was living as part of a joint family prior to the breakdown of relationships, the parents would be entitled to seek possession from their daughter-in-law, however, for a reasonable period they would have to provide some shelter to the daughter-in-law during which time she is able to seek her remedies against her husband."*



Learned counsel also relies on a recent judgement of the Supreme Court in **Satish Chander Ahuja vs. Sneha Ahuja, (2021) 1 SCC 414**, where the concept of shared household has been expanded and relevant part is as follows:-

*84. In view of the foregoing discussions, we answer issue Nos. 1 and 2 in following manner:*

*(i) The definition of shared household given in Section 2(s) cannot be read to mean that shared household can only be that household which is household of the joint family of which husband is a member or in which husband of the aggrieved person has a share.*

*(ii) The judgment of this Court in S.R. Batra v. Taruna Batra (supra) has not correctly interpreted Section 2(s) of Act, 2005 and the judgment does not lay down a correct law.”*

Issue notice to the Respondents, through all permissible modes, on the Appellant taking requisite steps, returnable on 17<sup>th</sup> May, 2021.

Till the next date of hearing, execution of the judgement and decree dated 13.04.2018 passed in Suit No. 9509/2016 and upheld vide order dated 03.02.2020 in RCA No. 121/2018 is stayed.

**JYOTI SINGH, J**

**MARCH 23, 2021**

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